

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

| | | |
|----------------------------------|---|-------------------------------|
| ERROL LINZY, |) | |
| |) | |
| Movant, |) | No. 3:16-CV-1714-N |
| vs. |) | No. 3:94-CR-0081-T (2) |
| |) | |
| UNITED STATES OF AMERICA, |) | |
| Respondent. |) | |

**ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

After reviewing all relevant matters of record in this case, including the Findings, Conclusions, and Recommendation of the United States Magistrate Judge and any objections thereto, in accordance with 28 U.S.C. § 636(b)(1), the Court is of the opinion that the Findings and Conclusions of the Magistrate Judge are correct and they are accepted as the Findings and Conclusions of the Court. For the reasons stated in the Findings, Conclusions, and Recommendation of the United States Magistrate Judge, the motion to vacate, set aside or correct sentence filed under 28 U.S.C. § 2255 is **DENIED** with prejudice as barred by the statute of limitations.

In accordance with Fed. R. App. P. 22(b) and 28 U.S.C. § 2253(c) and after considering the record in this case and the recommendation of the Magistrate Judge, petitioner is **DENIED** a Certificate of Appealability. The Court adopts and incorporates by reference the Magistrate Judge's Findings, Conclusions and Recommendation in support of its finding that the petitioner has failed to show (1) that reasonable jurists would find this Court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this Court] was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

If the movant files a notice of appeal, he must pay the \$505.00 appellate filing fee or submit

a motion to proceed *in forma pauperis* and a properly signed certificate of inmate trust account.

SIGNED this 8th day of March, 2018.


UNITED STATES DISTRICT JUDGE